

Town of Uxbridge
Conservation Commission
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Uxbridge, MA 01569
508-278-8600 x 2020



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Uxbridge
Town Clerk

Conservation Commission Meeting Minutes
Wednesday, August 24, 2016
Board of Selectman's Room, Uxbridge Town Hall

SEP 20 '16 AM 8:25

Please note some items may have been taken out of agenda order.

Present: Chairman Jim Hogan, Vice Chair Andrew Gorman, Treasurer Jeff Shaw, Clerk Lauren Steele, Members Patrick Hannon, Russ Holden, & Dale Bangma, Administrator Melissa Dillon

Absent: None

It being 6:30 pm, the meeting being properly posted, duly called and a quorum being present, the meeting was called to order by the Vice Chair.

Please note that Mr. Hogan is present but Mr. Gorman acted as Chair

OLD BUSINESS

1. Bylaw Review and Discussion

o Discussion: The Commission will go through the bylaw by section.

- Section 1-Purpose: No objections or comments.
- Section 2-Statement of Jurisdiction: No objections or comments. Changes were made to the definition of the man-made pond so that it does not include small fish ponds. Therefore, something man-made needs to be what is sustaining the water.
- Section 12-Definitions: Mr. Holden questions what would be included (dams); the Commission discusses that you cannot build a dam without approval regardless. Mr. Gorman discuss the impact it will have on agricultural properties that cannot meet the agricultural threshold but would like a small drinking area for their animals. Mr. Hogan suggests that the definition should include that it cannot retain the water level without a liner.
- Section 2 (continued): Mr. Holden comments about the vernal pool definition and if it covers what the Commission may believe to be a vernal. Ms. Steele comments that the definition is taken from DEP and it not just made from their own words.
- Section 3-Exemptions & Exceptions: Mr. Holden asks if we should include BMPs for forestry or wetland replication. Mr. Hannon discusses that there are already regulations in place for notification to the Conservation Commission for projects involving those issues. The Commission decides to leave the paragraph as is. ****Mr. Hogan has excused himself from the meeting at 7pm**** Mr. Holden asks if there are any other exemptions that the Commission should include. ****Mr. Hannon excused himself from the meeting**** The Commission cannot find any exemptions that they would like to take off the exemption list. ****Mr. Hannon returned to the meeting****
- Section 4-Enforcement: The Commission discusses having the problem of the language of the fine 'up to \$300.' Commissioners are concerned with the ability to discern what violation gets a certain dollar amount and would have to be defined in the bylaw. Mr. Bangma is concerned with the strict 14-day stipulation that the violation must be corrected in and how it does not give any leeway. The Commission discusses and agrees to add a stipulation that the landowner will be notified by certified mail of the alleged violation and their or their representative's attendance at the next

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scheduled meeting will stop the accumulation of fines and change the fine to \$50/day for all violations

- Section 5- Limitations of Construction and Disturbance: Mr. Bangma does not agree with the 50' Buffer but other Commissioners believe that this will help with future development and cutting down alteration to the resource areas and homeowners can apply for a variance if completely necessary. Mr. Holden questions if the Commission should be listed as a competent source as it could open Commissioners up to legal issues.
- Section 6-Pre-acquisition Violations: The language was changed slightly from the MACC model bylaw. Mr. Bangma is concerned on how far the Commission will go in history to determine if it is a current violation. Commissioners agree to change the language to state that permits that are issued pursuant to the bylaw, so that they are not looking in the past.
- Section 7-Applications and Fees: No comments.
- Section 8-Notice and Hearings: Ms. Dillon requests a review of what will have a required abutter notification. The current bylaw requires that every application or request will require notification and it may be too much. Commissioners agree not to include Certificates of Compliance for the abutter notification requirement. Commissioners discuss having the abutter notification extend to 300 feet or keep it at the current 100' and 200' for Riverfront. Commissioners agree to keep the notification of 100' to abutters, including RDAs, and 200' if work is within the Riverfront. Ms. Dillon also suggests taking out the option for hand delivery and only have certified mail receipts or certificates of mailings (Commission agrees).
- Section 9-Coordination with Other Boards: Originally, it was written that applicants needed to be submitted to other boards. Instead, it was revised that the Commission has the right to share with other boards to get comments.
- Section 10-Permits and Conditions: Mr. Hannon wants to make sure that Town Counsel will review the bylaw before Town Meeting to ensure that we have a full capacity to deny an application if it cannot satisfy the requirements set. Mr. Gorman agrees with the need to have the right to request wildlife studies to be done.
- Section 11-Regulations: Mr. Hannon questions if we should have the Determinations of Applicability recorded to protect landowners now and in the future. Commissioners agree to have the Determinations recorded, both positive and negative.
- Section 12-Definitions (continued): Competent person and qualified engineer is defined in a separate section. Further clarification of man-made ponds is given. Original language is used with the addition of 'use of a liner would not maintain enough water to qualify...'
- Section 13-Financial Assurance: Mr. Hannon requests that the Conservation Commission replace the Town Manager in who determines the amount of the bond needed (Commission agrees).
- Section 14-Burden of Proof: No comments.
- Section 15-Appeals: Department of Environmental Protection is replaced with superior court.
- Section 16-Relation to the Wetlands Protection Act: No comments.
- Section 17-Severability: No comments.
- Mr. Holden wonders if the Commission is being less stringent than the WPA with the phrase that violations are only pursuant to this bylaw. The phrase cannot be found in the WPA; therefore, it is believed this is not the case especially because it is taken from the MACC model bylaw. There is concern that we will not be able to deal with violations that have been done prior to the approval of this bylaw. Mr. Hannon states that DEP can still deal with violations when we cannot. Mr. Gorman

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explains that the Commission will not be taking the Wetlands Protection Act and DEP out of the equation.

- **MOTION: I, Mr. Hannon, move that we approve the Uxbridge Conservation Commission Wetland Bylaw as amended to be submitted. Seconded by Mr. Shaw, the motion carried 5-1-0. Mr. Bangma-nay.**
- **MOTION: I, Mr. Shaw, move that submit the article to see if the Town will vote to accept the provisions of M.G.L. Chapter 40, Section 58, to establish a municipal charges lien for the purpose of Conservation Commission fines and fees; or take any action relative thereto. Seconded by Mr. Hannon 6-0-0.**
 - Discussion: This will allow the town to collect fines and hold them accountable and against the tax liens.

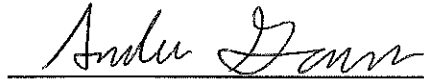
MOTION: I, Mr. Hannon, move that we adjourn. Seconded by Mr. Shaw, the motion carried 6-0-0.

ADJOURNMENT-NEXT MEETING SCHEDULED FOR TUESDAY SEPTEMBER 6, 2016

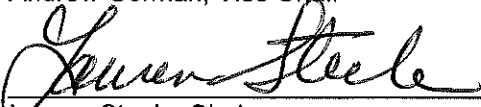
Respectfully submitted,
Melissa Dillon



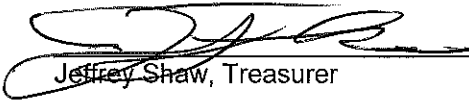
Jim Hogan, Chairman




Andrew Gorman, Vice Chair



Lauren Steele, Clerk



Jeffrey Shaw, Treasurer



Date



Patrick Hannon, Member

Russell Holden, Member

Dale Bangma, Member